IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

OP.No. 11857 of 1999(J)

PETITIONER:

THE KERALA STATE DEFENCE SERVICES CO-OPERATIVE HOUSING SOCIETY LTD., NO. 4343, SIVASAKTHI BUILDING, AYYAPPANKAVU, COCHIN -18, REP. BY ITS SECRETARY.

BY ADV. SRI.E.R.VENKATESWARAN

RESPONDENTS:

THE PROVIDENT FUND COMMISSIONER, BHAVISHYANIDHI BHAVAN, PB NO. 1895, KALOOR.

BY ADV. SRI.N.N.SUGUNAPALAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 20/06/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NO. 19073/1999 IN OP NO. 11857/1999 J

DISMISSED

20/06/2007. SD/- KURIAN JOSEPH, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE CIRCULAR ISSUED BY THE PROVIDENT FUND COMMISSIONER NEW DELHI.

EXT.P2. COPY OF THE NOTIFICATION BY THE GOVT. OF INDIA DT. 8/2/95.

EXT.P3. COPY OF THE LETTER DT. 24/4/96 BY THE PETITIONER TO THE RESPONDENT.

EXT.P4. COPY OF THE LETTER DT. 25/4/96 BY THE PETITIONER

EXT.P5. COPY OF THE LETTER DT. 14/08/97 BY THE RESPONDENT TO THE PETITIONER

EXT.P6. COPY OF THE LETTER DT. 21/08/97 BY THE RESPONDENT TO THE PETITIONER .

EXT.P7. COPY OF THE LETTER DT. 11/09/97 BY THE PETITIONER TO THE RESPONDENT.

EXT.P8. COPY OF THE LETTER DT. 21/10/97 BY THE PETITIONER TO THE RESPONDENT.

EXT.P9. COPY OF THE LETTER DT. 24/11/97 BY THE PETITIONER TO THE RESPONDENT.

EXT.P10. COPY OF THE ORDER ISSUED BY THE RESPONDENT DT. 18/11/97.

EXT.P11. COPY OF THE LETTER DT. 7/1/98 BY THE PETITIONER TO THE RESPONDENT.

EXT.P12. COPY OF THE LETTER DT. 29/1/98 BY THE RESPONDENT TO THE PETITIONER.

EXT.P13. COPY OF THE LETTER DT. 19/2/98 BY THE PETITIONER TO THE RESPONDENT.

EXT.P14. COPY OF THE LETTER DT. 20/6/98 BY THE PETITIONER TO THE RESPONDENT.

EXT.P15. COPY OF THE LETTER DT. 15/07/98 OF THE RESPONDENT TO THE PETITIONER

EXT.P16. COPY OF THE REPRESENTATION BY THE PETITIONER BEFORE THE MINISTER FOR LABOUR MINISTRY OF LABOUR, NEW DELHI DT. 31/07/98.

EXT.P17. COPY OF THE LETTER BY THE RESPONDENT TO THE PETITIONER DT. 12/4/99.

EXT.P18. COPY OF THE LETTER DT. 6/4/99 BY THE PETITIONER TO THE RESPONDENT.

EXT.P29. COPY OF THE NOTICE OF THE DEMAND TO DEFAULTER DT. 6/5/99.

KURIAN JOSEPH J.

O.P. NO.11857 OF 1999

Dated 20th June, 2007.

JUDGMENT

In the matter of payment of contribution to the Employees Provident Fund, learned counsel for the petitioner submits that Ext.P13 representation filed before the respondent for reconsideration of its stand may be directed to be considered, taking note also of Exts.P1 and P2 circular and notification. According to the petitioner, the petitioner is not the employer of those ex-service men engaged in various establishments. That is seriously disputed in the counter affidavit. Learned Standing Counsel submits that the exemption has since been withdrawn. But the contention of the petitioner is that the withdrawal has only prospective operation. Be that as it may, it is seen that the authority has not referred to Exts.P1 and P2 while taking the impugned decision. There will be a direction to the respondent to consider Ext.P13 with notice to the petitioner and pass

appropriate orders thereon in accordance with law, within three months from the date of production of a copy of the judgment. It will be open to the petitioner to take all available contentions before the respondent. The interim order passed by this Court in C.M.P.No.19073/99 will continue till such time.

The writ petition is disposed of as above.

KURIAN JOSEPH, JUDGE.

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KURIAN JOSEPH, J.

O.P. NO.11857 OF 1999 (J)

J U D G M E N T

Dated 20th June, 2007.